

REMARKS

Claims 29, 45, 57, and 58 are amended and claims 30-44 and 56 are canceled without prejudice. Claims 29, 45-55, 57, and 58 are pending. In view of the following remarks, Applicant respectfully requests that the rejections be withdrawn and the application be forwarded on to issuance.

Statement of Substance of Interview dated November 9, 2010

Applicant's representative, Patrick Walsh, wishes to thank Examiner Sherr for a telephonic interview on November 9, 2010.

During the interview, the differences between the cited references and the claimed subject matter were discussed. In the interest of expediting allowance of the subject application and without conceding the propriety of the rejections, Applicant's representative also discussed subject matter for amendments to clarify the claimed subject matter. Examiner Sherr provided helpful input regarding Applicant's arguments and possible amendments. No agreement was reached as to allowable claims.

Accordingly, amendments have been made herein in the spirit of those discussed during the interview. Applicant submits that all of the pending claims are in condition for allowance. If any issues remain that would prevent the allowance of the application, Applicant requests that the examiner contact the undersigned to resolve this issue.

Election/Restriction Requirement

The Examiner asserts that Applicant's traversal of the restriction requirement is not persuasive. Applicant disagrees with this assertion and maintains that no serious burden exists for the examiner such that prosecution
5 requires a restriction. Nevertheless, in the interest of advancing prosecution and without conceding the propriety of the requirement, applicant has canceled claims 30-44.

§ 103 Rejections

10 Claims 29, 45-54, and 56-58 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 4,453,074 to Weinstein (hereinafter "Weinstein") in view of Edward Rothstein, *Making the Internet come to you, through 'push' technology*, New York Times (Late Edition (east Coast)), p.5 (20 January 1997) (hereinafter "Rothstein").

15 Claim 55 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Weinstein in view of Rothstein, and further in view of U.S. Patent No. 6,212,634 to Geer, Jr. *et al* (hereinafter "Geer").

A claim's subject matter is obvious "if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a
20 whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains." 35 U.S.C. § 103(a). Applicant disagrees with the rejections. Weinstein in combination with

Rothstein does not support the § 103 rejections because the proposed combination fails to teach or suggest, each and every feature of the claims, as presently recited. Similarly, the proposed combination of Weinstein, Rothstein, and Geer fails to teach or suggest each and every feature of claim 55 (in combination with claim 45). Withdrawal of the rejections is respectfully requested for at least the reasons presented herein.

1. Independent Claim 29

Claim 29 has been amended, and as amended recites, in part, “sending an order by the portable device to purchase the product identified by the product information to an electronic transaction system....” It is respectfully submitted that the § 103 rejection of claim 29 should be withdrawn because the combination of Weinstein and Rothstein fails to teach or suggest at least one element of claim 29.

a. sending an order to purchase a product by the portable device

Applicant has amended claim 29 to recite, in part, “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system....*” Examiner asserts Weinstein teaches or suggests “sending an order to purchase” (*Office Action* p. 3). Applicant disagrees with this assertion but, in the interest of advancing prosecution, has amended claim 29 as recited above.

Rather than sending an order to purchase a product by a portable device, Weinstein describes *authorizing purchase transactions* with an “intelligent card” where the transaction is “effected by a terminal when a user intelligent card is inserted in it” (*Weinstein* col. 1, lines 40-49, and col. 2, lines 8-11). The cited portions of Weinstein, in particular, merely describe cryptographic techniques to authorize the purchase transactions within the “intelligent card” at a terminal (*e.g.* one-part and two-part encryption techniques).

No “order” is ever sent by the “intelligent card” to the terminal. Likewise, no “order” is sent by the terminal to the “intelligent card.” The “intelligent card” is only used (1) to verify a password before a transaction takes place; and (2) in some instances, to store a dollar value. Once the password is verified using the described cryptographic techniques, however, the transaction is then effected *by the terminal*. Thus, Weinstein, which merely describes authorizing transactions using an “intelligent card” fails to teach or suggest “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system*” as recited in claim 29.

In addition, Rothstein merely gives a general overview of “push” technology, explaining that it is “one of the hottest areas of Internet development” (*Rothstein* ¶[0003]). Rothstein thereafter only describes “pushing” information, like custom designed news reports from content providers such as CNN and Wired magazine, into users’ PCs (*Rothstein* ¶[0003]). Thus, at best, Rothstein pushes news information about a product into a user’s PC. As the Office can surely

appreciate, purchasing a product certainly does not necessarily follow from “pushing” information on users. Applicant submits, therefore, that Rothstein, which merely describes pushing information, also fails to teach or suggest “sending an order ... to purchase the product” as recited in claim 29.

5 Accordingly, for any one of the reasons discussed above, the combination of Weinstein and Rothstein does not support a § 103 rejection of claim 29. Accordingly, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claim 29.

2. Independent Claim 45

10 Claim 45 has been amended, and as amended recites, in part, “sending an order by the portable device to purchase the product identified by the product information to an electronic transaction system....” It is respectfully submitted that the § 103 rejection of claim 45 should be withdrawn because the combination of Weinstein and Rothstein fails to teach or suggest at least one element of claim 45.

a. sending an order to purchase a product by the portable device

15 Applicant has amended claim 45 to recite in part “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system....*” Examiner asserts Weinstein teaches or suggests “sending an order to purchase” (*Office Action* p. 3). Applicant disagrees with this
20 assertion but, in the interest of advancing prosecution, has amended claim 45 as recited above.

Rather than sending an order to purchase a product by a portable device, Weinstein describes *authorizing purchase transactions* with an “intelligent card” where the transaction is “effected by a terminal when a user intelligent card is inserted in it” (*Weinstein* col. 1, lines 40-49, and col. 2, lines 8-11). No “order,” however, is ever sent by the “intelligent card” to the terminal. Instead, the “intelligent card” is only used (1) to verify a password before a transaction takes place; and (2) in some instances, to store a dollar value. Once the password is verified using cryptographic techniques, the transaction is then effected *by the terminal*. Thus, Weinstein, which merely describes authorizing transactions using an “intelligent card” fails to teach or suggest “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system*” as recited in claim 45.

In addition, Rothstein merely gives a general overview of “push” technology and, only describes “pushing” information, like custom designed news reports into users’ PCs (*Rothstein* ¶[0003]). Thus, at best, Rothstein pushes news information about a product into a user’s PC. As the Office can surely appreciate, purchasing a product certainly does not necessarily follow from “pushing” information on users. Applicant submits, therefore, that Rothstein, which merely describes pushing information, also fails to teach or suggest “sending an order ... to purchase the product” as recited in claim 45.

Accordingly, for any one of the reasons discussed above, the combination of Weinstein and Rothstein does not support a § 103 rejection of claim 45.

Accordingly, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claim 45.

3. Independent Claim 57

Claim 57 has been amended, and as amended recites, in part, “sending an order by the portable device to purchase the product identified by the product information to an electronic transaction system....” It is respectfully submitted that the § 103 rejection of claim 57 should be withdrawn because the combination of Weinstein and Rothstein fails to teach or suggest at least one element of claim 57.

a. sending an order to purchase a product by the portable device

Applicant has amended claim 57 to recite in part “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system....*” Examiner asserts Weinstein teaches or suggests “sending an order to purchase” (*Office Action* p. 3). Applicant disagrees with this assertion but, in the interest of advancing prosecution, has amended claim 57 as recited above.

Rather than sending an order to purchase a product by a portable device, Weinstein describes *authorizing purchase transactions* with an “intelligent card” where the transaction is “effected by a terminal when a user intelligent card is inserted in it” (*Weinstein* col. 1, lines 40-49, and col. 2, lines 8-11). No “order,” however, is ever sent by the “intelligent card” to the terminal. Instead, the “intelligent card” is only used (1) to verify a password before a transaction takes

place; and (2) in some instances, to store a dollar value. Once the password is verified using cryptographic techniques, the transaction is then effected *by the terminal*. Thus, Weinstein, which merely describes authorizing transactions using an “intelligent card” fails to teach or suggest “sending an order *by the portable device* to purchase the product identified by the product information *to an electronic transaction system*” as recited in claim 57.

In addition, Rothstein merely gives a general overview of “push” technology and, only describes “pushing” information, like custom designed news reports, into users’ PCs (*Rothstein* ¶[0003]). Indeed, purchasing a product certainly does not necessarily follow from “pushing” information on users. Applicant submits, therefore, that Rothstein, which merely describes “pushing” information also fails to teach or suggest “sending an order ... to purchase the product” as recited in claim 57.

Accordingly, for any one of the reasons discussed above, the combination of Weinstein and Rothstein does not support a § 103 rejection of claim 57. Accordingly, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claim 57.

4. Independent Claim 58

Claim 58 has been amended, and as amended recites, in part, “means for sending an order by the portable device to purchase the product identified by the product information to an electronic transaction system....” It is respectfully submitted that the § 103 rejection of claim 58 should be withdrawn because the

combination of Weinstein and Rothstein fails to teach or suggest at least one element of claim 58.

a. sending an order to purchase a product by the portable device

Applicant has amended claim 58 to recite in part “means for sending an order **by the portable device** to purchase the product identified by the product information **to an electronic transaction system....**” Examiner asserts Weinstein teaches or suggests “sending an order to purchase” (*Office Action* p. 3). Applicant disagrees with this assertion but, in the interest of advancing prosecution, has amended claim 58 as recited above.

Rather than sending an order to purchase a product by a portable device, Weinstein describes **authorizing purchase transactions** with an “intelligent card,” where the transaction is “effected by a terminal when a user intelligent card is inserted in it” (*Weinstein* col. 1, lines 40-49, and col. 2, lines 8-11). No “order,” however, is ever sent by the “intelligent card” to the terminal. Instead, the “intelligent card” is only used (1) to verify a password before a transaction takes place; and (2) in some instances, to store a dollar value. Once the password is verified using cryptographic techniques, the transaction is then effected **by the terminal**. Thus, Weinstein, which merely describes authorizing transactions using an “intelligent card” fails to teach or suggest “sending an order **by the portable device** to purchase the product identified by the product information **to an electronic transaction system**” as recited in claim 58.

In addition, Rothstein merely gives a general overview of “push” technology and, only describes “pushing” information, like custom designed news reports, into users’ PCs (*Rothstein* ¶[0003]). Indeed, purchasing a product certainly does not necessarily follow from “pushing” information on users.

5 Applicant submits, therefore, that Rothstein, which merely describes “pushing” information also fails to teach or suggest “sending an order ... to purchase the product” as recited in claim 58.

Accordingly, for any one of the reasons discussed above, the combination of Weinstein and Rothstein does not support a § 103 rejection of claim 58.

10 Accordingly, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claim 58.

5. Dependent Claims

Claims 46-55 each depend from allowable independent claim 45. Therefore, Applicant respectfully requests that the Examiner withdraw the

15 rejections of claims 46-55 for at least this reason.

Conclusion

All of the claims are believed to be in condition for allowance. Accordingly, Applicant requests issuance of a Notice of Allowability. If the Office's next anticipated action is to be anything other than issuance of a Notice of Allowability, Applicant respectfully requests a telephone call for the purpose of scheduling an interview.

Respectfully Submitted,

Dated: November 30, 2010

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